

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

PENNSYLVANIA STATE CONFERENCE)	
OF THE NAACP, ET AL.,)	
)	1:22-CV-00339-SPB
Plaintiffs,)	
)	
vs.)	SUSAN PARADISE BAXTER
)	UNITED STATES DISTRICT JUDGE
)	
AL SCHMIDT, IN HIS OFFICIAL)	
CAPACITY AS ACTING SECRETARY OF)	
THE COMMONWEALTH; ET AL.,)	MOTION FOR RECONSIDERATION
)	
Defendants)	ECF NO. 367

O R D E R

Presently before this Court is Plaintiffs' motion for reconsideration of this Court's order dismissing a motion to intervene and a motion for stay pending appeal.

On November 29, 2023, this Court entered judgment in this matter. ECF No. 350. Thereafter, a Motion to Intervene was filed by purported intervenor Richard Marino. ECF No. 351. Additionally, the intervenor RNC, along with Mr. Marino, filed an Expedited Motion for Stay Pending Appeal. ECF No. 353. On December 4, 2023, this Court ordered briefs in opposition to those motions be filed by December 11, 2023. ECF No. 361.

Two days later however—and before this Court could rule on the pending motions—the RNC filed a Notice of Appeal to the Court of Appeals for the Third Circuit. *See* ECF No. 362. Thereafter, the RNC and the purported intervenor informed this Court that they had also filed a Motion to Intervene and a Motion for Stay in the Court of Appeals. ECF No. 364. *See also*

Court of Appeals Case No. 23-3166, ECF Nos. 8, 9. The Court of Appeals directed responses to those motions be filed by Tuesday, December 12, 2023. *Id.*, at ECF No. 11.

By Order dated December 8, 2023, this Court dismissed the pending motions. The Order explained that “the filing of the Notice of Appeal by the Intervenor-Defendants, along with the motions to intervene and for a stay of the judgment order filed in the Third Circuit, directly implicates this jurisdictional principle and creates a risk that two courts will be simultaneously considering the same issue.” ECF No. 366. Plaintiffs now seek reconsideration of that Order. ECF No. 367.

The purpose of a motion for reconsideration is “to correct manifest errors of law or fact or to present newly discovered evidence.” *Jerry-El v. Luther*, 2023 WL 7194768, at *4 (W.D. Pa. Nov. 1, 2023) (quoting *Max's Seafood Café v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999)). The movant bears the burden of demonstrating grounds for reconsideration. *Butt v. Philadelphia Housing Auth.*, 2020 WL 12654455, at *1 n.2 (E.D. Pa. Dec. 18, 2020). Asserting that a notice of appeal does not divest a district court of jurisdiction, Plaintiffs seek reconsideration based on a purported error of law. Plaintiffs request reconsideration so that this Court can deny the motions to intervene and to stay on their merits (instead of a dismissal on a jurisdictional basis).

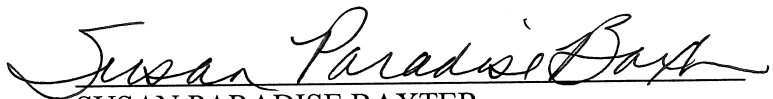
Plaintiffs’ request in this regard is irrelevant. No error of law has occurred in the dismissal of the motions to intervene and to stay. Case law supports this Court’s determination that it lacks jurisdiction to decide these motions on their merits after a notice of appeal and the same motions have been filed in the Court of Appeals. *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). *See also In re Advanced Electronics, Inc.*, 283 Fed. Appx. 959, 963-64 (3d Cir. 2008); *Venen v. Sweet*, 758 F.2d 117, 121 (3d Cir. 1985). That other case law may be cited for the opposite proposition does not equate to an error of law to support reconsideration.

“[A] federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously.” *United States v. Howell*, 2022 WL 2052650, at *2 (E.D. Pa. June 7, 2022) (quoting *Griggs*, 459 U.S. at 58). This prudential jurisdictional principal prevents “the confusion and inefficiency which would ... result were two courts to be considering the same issue ... simultaneously.” *In re Advanced Electronics, Inc.*, 283 Fed. Appx. at 963-64 (quoting *Venen*, 758 F.2d at 121 n.2 (citations omitted)).

Accordingly, the motion for reconsideration [ECF No. 367] is DENIED.

DATED this 12th day of December, 2023.

BY THE COURT:


SUSAN PARADISE BAXTER
UNITED STATES DISTRICT JUDGE